



December 22, 2015

VIA EMAIL & FEDERAL EXPRESS—

RE: Written Follow-up to Verbal Ammonia Release Notification
Talent Gelato LLC, 1058 King Industrial Drive, Marietta, GA 30062
CTS #78568

Dear Sir / Madam:

This letter and the enclosed Georgia Release Notification Reporting Form is Talent Gelato LLC's (Talent) written follow-up to the ammonia release at the above-referenced location on Friday, December 18, 2015 at approximately 1:00 PM. After the site was deemed safe by the Incident Commander at approximately 8:40 PM, Talent proceeded with its investigation and the findings are summarized below.

Incident Description

As you know, Talent became aware of the ammonia release when the Marietta Fire Department arrived at our site at around 1:00 PM on December 18, 2015. I was advised that our downwind neighbor, Amrep, called the fire department due to the smell of ammonia. Immediately, at approximately 1:05 PM, Talent evacuated its personnel to an upwind location. I deployed safety personnel to confirm the release and they determined observed release conditions in the "Back Engine Room," which contains two compressors. They proceeded to close the king valve to isolate the supply of liquid ammonia at approximately 1:10 PM. Then the intercooler was isolated by closing all additional valves leading to and from the vessel. Subsequently, due to notifications provided by Talent and the Fire Department, several emergency response professionals arrived on-site to assist. We continued to ventilate the building to facilitate dissipation of the ammonia. The Cobb County Emergency Response Services (EMS) set up at the scene to enter the facility using Level A suits; they entered the Back Engine Room to take ammonia readings. Readings in the room exceeded 1000 ppm. EMS also toured the main building and only found small readings in the boiler room; this was due to the fresh air intake for this particular room.

At approximately 8:40 PM, the Incident Commander, with the concurrence of EPA and other critical response personnel, deemed the site safe for re-entry due to ventilation reducing ammonia level to 0 ppm in the main building. Subsequently, Talent was able to initiate its investigation.

Location, Chemical Released, Date & Time

An anhydrous ammonia (NH₃) release occurred at the above-referenced Talent Gelato LLC factory on December 18, 2015 at some time around 1:00 PM.

Amount released

After reviewing all information related to the event, Talent determined that the release was approximately 189 lbs, which exceeds the 100 lbs. RQ for anhydrous ammonia.

Location of Release

The location of the release was the Back Engine Room. At this point in our investigation, Talent believes the release was caused by the failure of a threaded Schedule 80 Pipe Nipple located on the intercooler.



Immediate Remedial Actions taken:

- 1) Failed threaded Schedule 80 Pipe Nipple was replaced.
- 2) Remtech deployed to contain, characterize, and dispose of water contaminated with liquid ammonia in accordance with applicable laws.

Planned Remedial actions:

- 1) Evaluation of failure by an independent PE, specializing in ammonia refrigeration.
- 2) Accelerate scheduling of independent PSM Mechanical Integrity review for Q1 2016.
- 3) Update PSM program consistent with evaluations.
- 4) Install ammonia sensor/ alarm system in Back Engine Room.

Talenti expects to complete all the remedial actions by Q1, 2016.

Toxic / chronic effect

Talenti believes that the ventilation of the spill and the strong winds prevalent on December 18, 2015 ensured full dissipation of any ammonia gas. Since the compressor room does not connect to the production facility's ventilation system, there was no impact on the main factory floor. Accordingly, Talenti believes there was no impact to plant employees on site or any adjacent facilities other than the reported nuisance odors. Talenti knows of no potential toxic condition during this release.

If you have any questions regarding this letter report, please feel free to call me at (573) 450-3850.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan R. Dunham'.

Bryan Dunham
Factory Director

Enclosures

Addressees:

David Hankerson, Director
Cobb County EMA
140 North Marietta Parkway
Marietta, GA 300060

Jerry Campbell
Emergency Response Manager
Hugh Galyean
Emergency Response Manager
Georgia Environmental Protection Division



PO Box 3250
16 Center Road
Cartersville, GA 30120


Christina Jagonase
Environmental Compliance Specialist
Risk Management Program 112(r)
GA EPD- Air Protection Branch
4244 International Parkway, Ste 120
Atlanta, GA 30354

Kevin Eichinger
US EPA – Region IV
61 Forsyth Street, SW
Mail Code 9T25
Atlanta, GA 30303-8960

Christy Cronin
Assistant Chief/Commander
Tim Milligan
Assistant Chief/Deputy Fire Marshal
Marietta Fire Department
112 Haynes St.
Marietta, GA 30060-2973

Georgia Environmental Protection Division
Emergency Response Team

Release and Remediation Report

<i>I certify to the best of my knowledge that the provided information below and attachments are correct and accurate.</i>	
Authorized Representative Name	Bryan Dunham
Signature	
The Georgia Electronic Records and Signatures Act, O.C.G.A. § 10-12-1 et seq. provides for the use of electronic signatures.	

<i>(Enter responses regarding the incident in the spaces to the right.)</i>	
Incident Initial Information	Response (as applicable)
EPD Complaint Tracking System ID Number	CTS #78568
Date/Time Incident Occurred	Friday, December 18, 2015 @ 1:00PM
Incident Location: Physical Address, Mile Marker, Closest Intersection, or Latitude/Longitude	1058 King Industrial Drive Marietta, GA 30062

Responsible Party Information	Response (as applicable)
Responsible Party or Facility Name	Talent Gelato & Sorbello, LLC
Responsible Party Contact Person	Bryan Dunham
Responsible Party Mailing Address	Same as physical location above
Responsible Party Telephone	678-809-8131

Remediation Contractor Information	Response (as applicable)
Remediation Contractor Firm Name	Remtech Engineers
Remediation Contractor Contact Person	Mark Ryckman
Remediation Contractor Mailing Address	200 North Cobb parkway, suite 200, Marietta, GA 30062
Remediation Contractor Telephone	770-377-5743, 770-427-7766, 800-377-3848

Material(s) Released to the Environment	Amount Released / UoM
<input type="checkbox"/> Unknown <input type="checkbox"/> Gasoline <input type="checkbox"/> Diesel <input type="checkbox"/> Aviation Gas / Jet Fuel <input type="checkbox"/> Fuel Oil	189 pounds
<input type="checkbox"/> New Lube Oil <input type="checkbox"/> Hydraulic Fluid, Used or Waste Oil <input type="checkbox"/> Transformer Oil	
<input type="checkbox"/> Sewage or Wastewater <input checked="" type="checkbox"/> Hazardous Substances (list CASRN)	
CAS RN 7664-41-7 Anhydrous Ammonia (RQ 100 pounds)	
<input type="checkbox"/> Other Materials (Specify below)	

Affected Environmental Media (check all that apply)
<input checked="" type="checkbox"/> Air <input type="checkbox"/> Coastal Waters <input type="checkbox"/> Surface Waters (Specify below) <input type="checkbox"/> Storm Drains <input type="checkbox"/> Open Ditches
<input type="checkbox"/> Groundwater <input type="checkbox"/> Wetlands <input type="checkbox"/> Soil <input type="checkbox"/> Impervious Surface <input type="checkbox"/> Other (Specify below)

(Continued on the following page; attach additional pages as needed.)

Georgia Environmental Protection Division
Emergency Response Team

Release and Remediation Report

<u>Describe Cause of Release:</u>	<p>The location of the release was the Back Engine Room. After reviewing all information related to the event, Talentl determined that the release was approximately 188 pounds, which exceeds the 100 pounds RQ for anhydrous ammonia. At this point in our investigation, Talentl believes the release was caused by the failure of a threaded Schedule 80 Pipe Nipple located on the intercooler.</p> <p>Talentl believes that the ventilation of the spill and the strong winds prevalent on December 18, 2015 ensured full dissipation of any ammonia gas. Since the compressor room does not connect to the production facility's ventilation system, there was no impact on the main factory floor. Accordingly, Talentl believes there was no impact to plant employees on site or any adjacent facilities other than the reported nuisance odors. Talentl knows of no potential toxic condition during this release.</p>
<u>Describe Response Actions Taken:</u> (attach disposal receipts, sample results)	<p>Immediate Remedial Actions taken:</p> <ol style="list-style-type: none">1) Failed threaded Schedule 80 Pipe Nipple was replaced.2) Remtech deployed to contain, characterize, and dispose of water contaminated with liquid ammonia in accordance with applicable laws. <p>Planned Remedial actions:</p> <ol style="list-style-type: none">1) Evaluation of failure by an independent PE, specializing in ammonia refrigeration.2) Accelerate scheduling of independent PSM Mechanical Integrity review for Q1 2016.3) Update PSM program consistent with evaluations.4) Install ammonia sensor/ alarm system in Back Engine Room. <p>Talentl expects to complete all the remedial actions by Q1, 2016.</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 14 2016

UNITED PARCEL SERVICE

Mr. Bryan Dunham
Factory Director
Talent Gelato
1058 King Industrial Drive
Marietta, Georgia 30062

RE: Talent Gelato – Marietta, GA
Notice of Potential Violations and Opportunity to Show Cause

Dear Mr. Dunham:

Based on information from the National Response Center and a follow-up investigation, the U. S. Environmental Protection Agency has determined that your company may potentially be in violation of Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9603(a) and Section 304(a) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11004, and the regulations promulgated at 40 C.F.R. § 302.6 and 40 C.F.R. Part 355, Subpart C, respectively.

Such potential violations may be subject to an enforcement action pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609 and Section 325 of EPCRA, 42 U.S.C. § 11045 which provides for the administrative assessment of penalties, and or the initiation of civil action. The EPA is offering Talent Gelato, the opportunity to meet with the EPA to present any factual information or other evidence relative to this matter. Therefore, we request that you be present at the EPA, Sam Nunn Atlanta Federal Center (SNAFC), 61 Forsyth Street, S.W., Atlanta, Georgia, on Thursday, November 3, 2016, at 10:00 a.m., to show cause why this Agency should not initiate administrative proceedings to assess civil penalties. You should allow adequate time to reach the SNAFC 9th floor reception area from the parking lot. An estimated 30 minutes is recommended. Enclosed is a listing of the potential violations which have been identified at your company's facility, the EPA Region 4 facilities guest access requirements, and a copy of the EPA EPCRA Enforcement Response Policy. You should be prepared to provide all relevant information with documentation pertaining to the potential violations. You have the right to be represented by legal counsel. To arrange the particulars of this meeting, please contact Mr. Eddie Chow at (404) 562-8989.

Sincerely,

Robert W. Bockman
Chief

Chemical Management and Emergency Planning
Section

Enclosures

POTENTIAL VIOLATIONS

Section of Potential Violations

Nature of Potential Violations

CERCLA 103(a)

Failure to immediately notify the National Response Center after a reportable quantity (RQ) of ammonia was released from your facility located at 1058 King Industrial Drive, Marietta, GA on December 18, 2015.

EPCRA Section 304(a)

Failure to immediately notify the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC) after a RQ of ammonia was released from your facility located at 1058 King Industrial Drive, Marietta, GA on December 18, 2015.

[Print](#) [Save](#)

Spill Summary Report for NRC Report #1136180

Report Date: 12/21/2015

Report Time: 9 06 AM EST

Region IV Hotline Log Entry Information

Data ID: 1883006

Date Of Report: 18-DEC-15 16 10

NRC #: 1136180

State #:

ERNS #:

Material Type: Haz

Receiver:

Material / Amount:

AMMONIA, ANHYDROUS (0 UNKNOWN AMOUNT).

Location:

City: MARIETTA

County: GOBB

State: GA

RQ = 100 #

Source of Pollution:

UNILEVER- TALENTI GELATO

Water Body:

State Or EPA Responded:

OSC Eichinger responding

Initial EPA Action:

Called RP

Status:

I - Pending

URL:

Associated Action Reports

DataID: 0890737

Date: 2015/12/18	Time: 17 47	Submitted by: R04 Duty Officer
Duty Officer/Responder Name: OSC Buerki	NRC Report #: 1136180	Hotline Log DataID: 1883006
Action Information		
Description: Called RP Bryan Dunham. He said that the leak was in a building separate from the main building and refrigeration had been turned off and the leak isolated. He said they were waiting for the ammonia smell to go away. The release happened at 1300 hours and was not reported to the NRC until more than 3 hours later. He stated that he was relatively new to the facility.		
I dispatched OSC Kevin Eichinger to lend technical assistance and oversee their response actions.		
Person Contacted		
Name: Bryan Dunham Organization: Unilever-Talent Gelato Phone #: 573-450-3850		

NRC Spill Report

NATIONAL RESPONSE CENTER 1-800-424-8802

GOVERNMENT USE ONLYGOVERNMENT USE ONLY***

Information released to a third party shall comply with any applicable federal and/or state Freedom of Information and Privacy Laws

Incident Report # 1136180

INCIDENT DESCRIPTION

Incident Type: FIRE

Incident Cause: UNKNOWN

Report taken by: MST ANNALIESE ENNIS at 16:10 on 18-DEC-15

Affected Area:

Incident occurred on 18-DEC-15 at 13:00 local incident time.

Affected Medium: AIR ATMOSPHERE

} 3 hrs, 10 mins.

REPORTING PARTY

Name:

BRYAN DUNHAM

Organization:

UNILEVER- TALENTI GELATO

Address:

1058 KING INDUSTRIAL DR

MARIETTA, GA

bryan.dunham@unilever.com

PRIMARY Phone: (573) 4503850

Type of Organization: PRIVATE ENTERPRISE

SUSPECTED RESPONSIBLE PARTY

Name:

BRYAN DUNHAM

Organization: UNILEVER- TALENTI GELATO
 Address: 1058 KING INDUSTRIAL DR
 MARIETTA, GA
 PRIMARY Phone: (573)4503850
 Type of Organization: PRIVATE ENTERPRISE

INCIDENT LOCATION

1058 KING INDUSTRIAL DR County: COBB

City: MARIETTA State: GA

RELEASED MATERIAL(S)

CHRIS Code: AMA Official Material Name: AMMONIA, ANHYDROUS
 Also Known As:
 Qty Released: 0 UNKNOWN AMOUNT

DESCRIPTION OF INCIDENT

CALLER IS REPORTING A RELEASE OF ANHYDROUS AMMONIA INTO THE ATMOSPHERE FROM A FOOD PROCESSING FACILITY FOR UNKNOWN REASONS. CALLER BELIEVES IT MAY BE FROM A FAULTY FITTING.

INCIDENT DETAILS

Package: NO
 Building ID:
 Type of Fixed Object: FOOD PROCESSING PLANT
 Power Generating Facility: NO
 Generating Capacity:
 Type of Fuel:
 NPDES:
 NPDES Compliance: UNKNOWN

IMPACT

Fire Involved: NO Fire Extinguished: UNKNOWN
 INJURIES: NO Hospitalized: Empl/Crew: Passenger:
 FATALITIES: NO Empl/Crew: Passenger: Occupant:
 EVACUATIONS: YES Who Evacuated: EMPLOYEES Radius/Area:
 Damages: NO

Closure Type	Description of Closure	Hours	Direction of Closure
Air: N			
Road: N			Major Artery: N
Waterway: N			
Track: N			

Passengers Transferred: NO
 Environmental Impact: UNKNOWN
 Media Interest: NONE Community Impact due to Material:

REMEDIAL ACTIONS

LOCAL EMT, FIRE, AND COUNTY RESPONDED. EVACUATED THE BUILDING AND TOOK A HEAD COUNT. THE VESSEL IN QUESTION WAS ISOLATED. ENGINE ROOM TURNED OFF. RESIDUAL MATERIAL IS BEING LOWERED BEFORE THE SPACE CAN BE ENTERED.
 Release Secured: YES
 Release Rate:
 Estimated Release Duration:

WEATHER

Weather: SUNNY, 55°F Wind speed: 15 MPH

ADDITIONAL AGENCIES NOTIFIED

Federal:
 State/Local: LOCAL FIRE, PD, COUNT HAZMAT

State/Local On Scene:
State Agency Number:

NOTIFICATIONS BY NRC

CENTERS FOR DISEASE CONTROL (GRASP)
18-DEC-15 16:20 (770)4887100
CUSTOMS AND BORDER PROTECTION (GEORGIA COMMAND CENTER)
18-DEC-15 16:20 (912)7214840
CUSTOMS AND BORDER PROTECTION (GEORGIA COMMAND CENTER CON'T)
18-DEC-15 16:20 (912)7214840
DHS SOUTH CAROLINA FUSION CENTER (LE SENSITIVE ADVISORS & LIASON PROGRAM)
18-DEC-15 16:20 (866)4728477
DOT CRISIS MANAGEMENT CENTER (MAIN OFFICE)
18-DEC-15 16:20 (202)3661863
U.S. EPA IV (MAIN OFFICE)
18-DEC-15 16:22 (404)6504955 R4 DUTY PAGER
U.S. EPA IV (DUTY OSC)
18-DEC-15 16:20 (404)6504955
USCG NATIONAL COMMAND CENTER (MAIN OFFICE)
18-DEC-15 16:20 (202)3722100
GA BUREAU OF INVESTIGATION (COMMAND CENTER)
18-DEC-15 16:20 (404)3081460
NATIONAL INFRASTRUCTURE COORD CTR (MAIN OFFICE)
18-DEC-15 16:20 (202)2829201
NOAA RPTS FOR GA (MAIN OFFICE)
18-DEC-15 16:20 (206)5264911
NATIONAL RESPONSE CENTER HQ (MAIN OFFICE)
18-DEC-15 16:20
NATIONAL RESPONSE CENTER HQ (AUTOMATIC REPORTS)
18-DEC-15 16:20 (202)2671136
NTSB PIPELINE (MAIN OFFICE)
18-DEC-15 16:20 (202)3146293
DOI FOR REGION 4 (MAIN OFFICE)
18-DEC-15 16:20 (404)3314524
SEAHAWK IOC (INTER-AGENCY OPERATIONS CENTER)
18-DEC-15 16:20 (803)2060971
GEORGIA EMERGENCY MNGMT AGENCY (MAIN OFFICE)
18-DEC-15 16:20 (404)6357200
TSA OFFICE OF SECURITY OPERATIONS (SURFACE COMPLIANCE BRANCH SE REGION)
18-DEC-15 16:20 (904)9804075
USCG DISTRICT 7 (MAIN OFFICE)
18-DEC-15 16:20 (305)4156800
USCG DISTRICT 7 (PREVENTION DEPT)
18-DEC-15 16:20 (305)4156838

ADDITIONAL INFORMATION

~~THE NEIGHBORING FACILITY NOTICED THE RELEASE FIRST BASED ON THE ODOR FROM THE ENGINE ROOM EXHAUST.~~

*** END INCIDENT REPORT # 1136180 ***

Report any problems by calling 1-800-424-8802

PLEASE VISIT OUR WEB SITE AT <http://www.nrc.uscg.mil>



December 22, 2015

VIA EMAIL & FEDERAL EXPRESS—

RE: Written Follow-up to Verbal Ammonia Release Notification
Talenti Gelato LLC, 1058 King Industrial Drive, Marietta, GA 30062
CTS #78568

Dear Sir / Madam:

This letter and the enclosed Georgia Release Notification Reporting Form is Talenti Gelato LLC's (Talenti) written follow-up to the ammonia release at the above-referenced location on Friday, December 18, 2015 at approximately 1:00 PM. After the site was deemed safe by the Incident Commander at approximately 8:40 PM, Talenti proceeded with its investigation and the findings are summarized below.

Incident Description

As you know, Talenti became aware of the ammonia release when the Marietta Fire Department arrived at our site at around 1:00 PM on December 18, 2015. I was advised that our downwind neighbor, Amrep, called the fire department due to the smell of ammonia. Immediately, at approximately 1:05 PM, Talenti evacuated its personnel to an upwind location. I deployed safety personnel to confirm the release and they determined observed release conditions in the "Back Engine Room," which contains two compressors. They proceeded to close the king valve to isolate the supply of liquid ammonia at approximately 1:10 PM. Then the intercooler was isolated by closing all additional valves leading to and from the vessel. Subsequently, due to notifications provided by Talenti and the Fire Department, several emergency response professionals arrived on-site to assist. We continued to ventilate the building to facilitate dissipation of the ammonia. The Cobb County Emergency Response Services (EMS) set up at the scene to enter the facility using Level A suits; they entered the Back Engine Room to take ammonia readings. Readings in the room exceeded 1000 ppm. EMS also toured the main building and only found small readings in the boiler room; this was due to the fresh air intake for this particular room.

At approximately 8:40 PM, the Incident Commander, with the concurrence of EPA and other critical response personnel, deemed the site safe for re-entry due to ventilation reducing ammonia level to 0 ppm in the main building. Subsequently, Talenti was able to initiate its investigation.

Location, Chemical Released, Date & Time

An anhydrous ammonia (NH_3) release occurred at the above-referenced Talenti Gelato LLC factory on December 18, 2015 at some time around 1:00 PM.

Amount released

After reviewing all information related to the event, Talenti determined that the release was approximately 189 lbs, which exceeds the 100 lbs. RQ for anhydrous ammonia.

Location of Release

The location of the release was the Back Engine Room. At this point in our investigation, Talenti believes the release was caused by the failure of a threaded Schedule 80 Pipe Nipple located on the intercooler.



Immediate Remedial Actions taken:

- 1) Failed threaded Schedule 80 Pipe Nipple was replaced.
- 2) Remtech deployed to contain, characterize, and dispose of water contaminated with liquid ammonia in accordance with applicable laws.

Planned Remedial actions:

- 1) Evaluation of failure by an independent PE, specializing in ammonia refrigeration.
- 2) Accelerate scheduling of independent PSM Mechanical Integrity review for Q1 2016.
- 3) Update PSM program consistent with evaluations.
- 4) Install ammonia sensor/ alarm system in Back Engine Room.

Talenti expects to complete all the remedial actions by Q1, 2016.

Toxic / chronic effect

Talenti believes that the ventilation of the spill and the strong winds prevalent on December 18, 2015 ensured full dissipation of any ammonia gas. Since the compressor room does not connect to the production facility's ventilation system, there was no impact on the main factory floor. Accordingly, Talenti believes there was no impact to plant employees on site or any adjacent facilities other than the reported nuisance odors. Talenti knows of no potential toxic condition during this release.

If you have any questions regarding this letter report, please feel free to call me at (573) 450-3850.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan R. Dunham'.

Bryan Dunham
Factory Director

Enclosures

Addressees:

David Hankerson, Director
Cobb County EMA
140 North Marietta Parkway
Marietta, GA 300060

Jerry Campbell
Emergency Response Manager
Hugh Galyean
Emergency Response Manager
Georgia Environmental Protection Division

PO Box 3250
16 Center Road
Cartersville, GA 30120

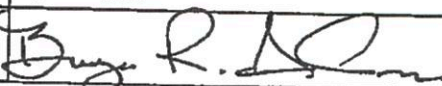
Christina Jagonase
Environmental Compliance Specialist
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**Georgia Environmental Protection Division
Emergency Response Team**

Release and Remediation Report

<i>I certify to the best of my knowledge that the provided information below and attachments are correct and accurate.</i>	
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Responsible Party or Facility Name	Talent Gelato & Sorbello, LLC
Responsible Party Contact Person	Bryan Dunham
Responsible Party Mailing Address	Same as physical location above
Responsible Party Telephone	678-809-6131

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<input type="checkbox"/> Sewage or Wastewater <input checked="" type="checkbox"/> Hazardous Substances (list CASRN)	
CAS RN 7664-41-7 Anhydrous Ammonia (RQ 100 pounds)	
<input type="checkbox"/> Other Materials (Specify below)	

Affected Environmental Media (check all that apply)
<input checked="" type="checkbox"/> Air <input type="checkbox"/> Coastal Waters <input type="checkbox"/> Surface Waters (Specify below) <input type="checkbox"/> Storm Drains <input type="checkbox"/> Open Ditches
<input type="checkbox"/> Groundwater <input type="checkbox"/> Wetlands <input type="checkbox"/> Soil <input type="checkbox"/> Impervious Surface <input type="checkbox"/> Other (Specify below)

(Continued on the following page; attach additional pages as needed.)

Georgia Environmental Protection Division
Emergency Response Team

Release and Remediation Report

<u>Describe Cause of Release:</u>	<p>The location of the release was the Back Engine Room. After reviewing all information related to the event, Talentl determined that the release was approximately 188 pounds, which exceeds the 100 pounds RQ for anhydrous ammonia. At this point in our investigation, Talentl believes the release was caused by the failure of a threaded Schedule 80 Pipe Nipple located on the intercooler.</p> <p>Talentl believes that the ventilation of the spill and the strong winds prevalent on December 18, 2015 ensured full dissipation of any ammonia gas. Since the compressor room does not connect to the production facility's ventilation system, there was no impact on the main factory floor. Accordingly, Talentl believes there was no impact to plant employees on site or any adjacent facilities other than the reported nuisance odors. Talentl knows of no potential toxic condition during this release.</p>
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November 2, 2016

VIA EMAIL

Robert Bookman, Chief
Chemical Management and
Emergency Planning Section
U.S. E.P.A. – Region IV
Atlanta Federal Building
61 Forsyth Street
Atlanta, GA 30303-8960

RE: Talenti Gelato LLC, 1058 King Industrial Drive, Marietta, GA 30062

Dear Mr. Bookman:

Talenti is in receipt of EPA's letter dated October 14, 2016, concerning the December 18, 2016 anhydrous ammonia release at its Marietta, GA facility. Your letter indicated that EPA was evaluating the possibility of enforcement regarding the timeliness of Talenti's reporting pursuant to EPCRA Section 304. Your letter provided Talenti an opportunity to present information to demonstrate enforcement was not appropriate in this case.

In summary, Talenti believes that enforcement is not appropriate for the following reasons: 1) the facts demonstrate that Talenti was advised of the release by emergency responders and that local responders provided the required notifications; 2) Talenti did make required notifications later, even though response agencies had already been advised; 3) Talenti already entered into a Consent Order with the state of Georgia for late reporting so no further enforcement is appropriate; 4) OSHA also filed a citation against Talenti that was resolved; the citation addressed the underlying root cause of the release; and 5) Talenti implemented all appropriate corrective actions and relevant documentation was provided to EPA, OSHA and Georgia EPD.

1) Chronology of Release Events

On December 18, 2015, Talenti management became aware of the release when the Marietta Fire Department arrived at our site to investigate an ammonia release at about 1:00 PM. Talenti's downwind neighbor had called the fire department and reported smelling ammonia odor. With first responders already at our site, our first goal was to protect our employees and our neighbors. At approximately 1:10 PM, Talenti's team was able to access and shut off the king valve. Doors to the compressor room were opened. Employees were evacuated to an upwind location and the company immediately deployed personnel with ammonia detectors to ensure that offsite levels of ammonia did not pose a risk. Our downwind neighbors were evacuated as well.

The fire department called the Cobb County Emergency Management Agency Response Team (also the LEPC) for back up. After Cobb County EMA's arrival, a command center was set up in the EMA's mobile



trailer. Talenti's Factory Director and Chief Engineer were asked to remain in the command center. We were then advised that the fire department had also contacted EPA and OSHA. Unilever's management team was actively involved in ensuring site safety and working directly with the first responders.

At approximately 4:00 PM, Talenti's Factory Director left the command center to make some notifications to its corporate office. Corporate advised the factory director, who began his assignment in September, that he should call federal EPA, the Georgia EMS, and the local LEPC even though they had not made any release calculations at that point and that the fire department had already made those notifications. As you know, the NRC was notified shortly thereafter at 4:25 PM and the state was advised at 4:35 PM. As noted, Cobb County was already on-site. Please note at this point, Talenti had not re-entered the compressor room and no determinations had been made regarding the amount of the release.

Talenti then called Remtech, a remediation vendor, to manage the cleanup. At approximately 8:00 PM, Mr. Kevin Eichinger of EPA arrived at the site. The EPA, Remtech and the local command center discussed the situation; EPA informed the command center that this situation, while serious, was not a typical crisis as other types of releases are. Local command center agreed to release the situation management over to the EPA representative; the EPA representative then released the scene back over to Talenti.

The Factory Director then sent Mr. Eichinger a quick email detailing out the action plan for cleanup and equipment repair. He agreed to the plan and then they talked about the reporting timeline. He stated that in his view we reported in a timely manner and did not violate any laws, he said local emergency responders were on site at the time of the incident and Talenti's activity of ensuring the operation was controlled and that all employees were safe took precedence. He agreed that the Factory Director made the notification at the first time he could and his report would reflect that observation.

Talenti's former safety manager, Perry Harlan, provide detailed follow-up documentation to Mr. Juan Rodolfo of EPA. *See Enclosure.*

2) Corrective Actions

The site completed the following corrective actions to prevent recurrence.

1. Immediately replaced the failed threaded Schedule 80 Pipe Nipple
2. Completed independent PSM Mechanical Integrity review
3. Updated PSM program corresponding to evaluation findings
4. Installed ammonia sensors/alarm system in Back Engine Room.
5. Immediately retrained all site management on EPCRA and Georgia release reporting requirements.
6. Updated respiratory protection program and PPE

In addition, Talenti hired a full time consultant, Stellar (PSM Specialists), to validate, update and manage its process safety management system.

3) Prior Enforcement Actions

Talenti entered the enclosed Consent Order with Georgia EPD and resolved the enclosed citation with OSHA. Even though Talenti objected to the Georgia EPD enforcement action, the company thought it



made more sense to settle the action and move forward. In addition, the Georgia reporting statute does not have an RQ for anhydrous ammonia; any release is reportable. With regard to the OSHA Citation, most corrective actions were fully implemented prior to the citations' issuance and those actions addressed the root cause of the incident. *See Enclosures.*

Talenti believes that it did everything possible to prevent recurrence of an ammonia release and to improve its reporting procedures, to protect its people, public health, and the environment. Penalties addressing the root cause of the incident (OSHA) and alleged reporting delays (EPD) have already been collected in full. The factory will close later this month and all operations have been compliant during this final year of operations. Production has ceased and the ammonia refrigeration system is scheduled to be decommissioned within the next week. Talenti believes that any further enforcement would serve no meaningful purpose.

We look forward to discussing any questions that you may have about this matter tomorrow. If you have any questions regarding this letter, please feel free to call me at (573) 450-3850.

Sincerely,

Bryan Dunham
Factory Director

Enclosures



Kate Donnelly
Senior Counsel - Environmental

Unilever
800 Sylvan Avenue
Englewood Cliffs, NJ 07632
USA

Tel: 201 894-2773
Fax: 201 894-2727
Kate.Donnelly@unilever.com

May 10, 2017

VIA UPS OVERNIGHT & EMAIL

Robert Bookman, Chief
Chemical Management and
Emergency Planning Section
U.S. E.P.A. – Region IV
Atlanta Federal Building
61 Forsyth Street N.W.
Atlanta, GA 30303-8960

RE: Talenti Gelato LLC, 1058 King Industrial Drive, Marietta, GA 30062

Dear Mr. Bookman:

Talenti, a wholly owned subsidiary of Unilever, is in receipt of EPA's letter dated April 19, 2017, summarizing EPA's offer to settle allegations regarding EPCRA notification reporting. While Talenti appreciates the reduction in proposed penalty included for Talenti's cooperation, Talenti believes that the offer fails to consider several relevant factors:

1. Talenti used conservative assumptions in calculating the total anhydrous ammonia release from the system to maximize the release amount. The total of 189 pounds includes liquid anhydrous ammonia, which Remtech (Cleanup Contractor) recovered and placed in four drums for disposal. Since the liquid anhydrous ammonia never migrated off-site, the recovered amount should not count towards the 100-pound release threshold. 40 CFR § 355.31(a). Accordingly, notification was not required.
2. Assuming the release was reportable, Talenti made the required notifications before Talenti was able to calculate and confirm that more than 100 pounds of ammonia were released using conservative assumptions. As indicated during our teleconference, at approximately 4:00 PM on December 18, 2015, I directed the Factory Director to call the SERC and NRC even though no calculations were completed. After shutting down the system's king valve at approximately 1:10 PM, the emergency response team did not allow any personnel to re-enter the compressor room to assess the release quantity.

3. Talenti already entered into a Consent Order with the state of Georgia for late reporting so further enforcement for late reporting to the SERC is inappropriate.
4. Mr. Kevin Eichinger of EPA was at the scene on the day of the release at approximately 8 PM. When Talenti's factory director reviewed the chronology of the day with him, he agreed that our notifications were timely.
5. The applicable Enforcement Response Policy ("ERP") allows for more flexibility and discretion than reflected in your offer. The amount of the release and the timeliness of the notification remain in dispute and represent a significant litigation risk.

Assuming that notifications were required, Talenti believes that the record supports its contention that it make the notifications in a timely and reasonable manner. Talenti believes it could prevail after filing a motion for accelerated decision. Nevertheless, it is willing to cooperate with EPA and settle this matter for expediency.

Talenti offers to settle both allegations for \$8500. Applying the penalty matrix, this figure reflects Level 2 for Timeliness and Level C for the chemical amount. For each allegation, the average amount for the cell, \$7292, is applied. Talenti maintains that its notifications were timely, but the Level 2 assessment more fairly reflects the disputed timeline of the release and notification. The total penalty is further reduced to reflect Talenti's degree of culpability by 25% and other factors as justice may require by 10%. In addition, the penalty is reduced by another \$1000 to reflect the fine paid to the Georgia SERC.

Matrix penalty = 2 allegations x (\$9721 + \$4863)/2 =	\$14584
Degree of Culpability: - 25%	- \$3646
Other Factors as Justice May Require: -10%	- \$1458
<u>Less Georgia Penalty</u>	<u>- \$1000</u>
Total	\$8480, round up to \$8500

Talenti proactively upgraded its ammonia system, its procedures, and training prior to EPA's notice of potential enforcement. The factory has closed and the ammonia system was decommissioned. Talenti believes that any further enforcement would serve no meaningful purpose; nevertheless, it makes this significant offer in good faith.

If you have any questions regarding this letter, please feel free to call me.

Sincerely,



Kate Donnelly
Senior Counsel – Environmental & Safety

cc: M. Kono (EPA-ORC)

Georgia Department of Natural Resources

Environmental Protection Division

2 Martin Luther King Jr. Drive, Suite 1456, Atlanta, Georgia 30334
Judson H. Turner, Director
(404) 656-4713

FEB 12 2016

Mr. Bryan Dunham, Factory Director
Talenti Gelato LLC
1058 King Industrial Drive
Marietta, GA 30062


RE: Consent Order EPD-AQC-6823
Talenti Gelato LLC
Cobb County

Dear Mr. Dunham:

This letter is to acknowledge receipt of your signed Consent Order. Enclosed is the final executed copy of the Order. You are expected to comply with the conditions of the Consent Order.

If you have any questions concerning your compliance status, contact J. R. Campbell, Emergency Response Manager, or Hugh Galyean, Emergency Response State On Scene Coordinator at (770) 387-4900.

Sincerely,



Judson H. Turner,
Director

Enclosure

ENVIRONMENTAL PROTECTION DIVISION
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA

RE: Talenti Gelato & Sorbetto, LLC
1058 King Industrial Drive, Marietta GA 30062
Marietta, Cobb County, Georgia

EPD-ERT-AQC - 6823

CONSENT ORDER

WHEREAS, Talenti Gelato & Sorbetto, LLC. (hereinafter the "Respondent") operates a production facility (hereinafter the "Facility") located at 1058 King Industrial Drive, Marietta, Cobb County Georgia; and

Authority

WHEREAS, the "Georgia Oil or Hazardous Material Spills or Releases Act" as amended O.C.G.A. § 12-14-1 et seq. (hereinafter the "Act"), the General Assembly of Georgia designated the Director of the Georgia Department of Natural Resources, Environmental Protection Division, (hereinafter the "Director" and the "Division") to administer the provisions of the Act; and

WHEREAS, 12-14-3(a) of the Act states "any person owning or having control over any oil or hazardous substance who has knowledge of any spill or release of such oil or who has knowledge of any spill or release of such hazardous substance in a quantity equal to or exceeding the reportable quantity or who has knowledge of a spill or release of an unknown quantity of oil or a hazardous substance shall immediately notify the division through the Department of Natural Resources Emergency Operations Center as soon as that person knows of the spill or release; and

History

WHEREAS, on December 18, 2015 the Respondent experienced a release of anhydrous ammonia into the atmosphere; and

Violations

WHEREAS, the Respondent failed to notify the Division within the specified reporting time of the release of anhydrous ammonia into the atmosphere in violation of the Act; and

Civil Penalties

WHEREAS, 12-14-4(a) of the Act states that "any person knowingly violating any provision of this chapter or rules or regulations established pursuant to this chapter shall be liable for a civil penalty of not more than \$1,000.00 per day. Each day during which the violation continues may be considered a separate violation." ;and

Conditions

WHEREAS, the Director has determined that it is in the public interest to resolve the allegations raised above by entering into this Order without the necessity of litigation and adjudication of the issues.

NOW THEREFORE, by agreement of the parties, before the taking of any testimony and without adjudicating the merits of the parties' positions in this matter, in order to resolve the violations alleged herein, the Director hereby **ORDERS** and Respondent **CONSENTS** to the following:

1. Within 30 days of the executed date of this Order, the Respondent will

complete a comprehensive review of operations, processes, and all associated activities at this Facility and shall prepare and submit, for EPD review and approval, a corrective action report detailing how the facility will address future releases to ensure compliance with the Act.

2. The Respondent will pay the Georgia Department of Natural Resources the sum of \$1,000.00 within 30 days of the execution date of the Order.

Correspondence and other submissions to be made to the Division shall be addressed to: P. O. Box 3250, Cartersville, GA 30120. Correspondence to the Respondent shall be addressed to: 1058 King Industrial Drive, Marietta, Ga. 30064.

Time is of the essence of this Order. Upon it becoming effective, Respondent shall promptly commence its undertakings required herein and shall diligently pursue the accomplishment thereof.

The failure of Respondent to provide the Division with an ultimately approved submission on or before the specified due date, may, in the sole discretion of the Director, be deemed a violation of this Order. Upon approval by the Division, all submissions required by the terms of this Order are incorporated by reference into, and made a part of, this Order. Except as may be provided by this Order, noncompliance with the contents of such approved submissions shall be deemed noncompliance with this Order.

Division approval of any submission required by this Order is not intended as, nor shall such approval be construed as, certification by the Division that compliance with relevant state and federal laws, regulations, and permits will thereby be achieved, and such approval by the Division shall not provide Respondent with a defense to an enforcement action taken by the Director pursuant to violations of the same. Division approval of any submission is strictly limited to the technical aspects of the submission and is not intended as, nor shall it be construed as, approval or acceptance of any statements, assertions, or

representations of fact, of opinion, or of a legal nature that are contained in the document.

Failure to complete a condition mandated by this Consent Order within the time period specified may be excused and not subject Respondent to enforcement action if the failure is the result of a force majeure event as identified below and Respondent complies the requirements set forth below. Respondent shall have the burden of proving to the Division that it was rendered unable, wholly or in part, by Force Majeure to carry out its obligations.

The term "Force Majeure" as used herein shall be limited to the following: Act of God; strike, lockout, or other labor or industrial disturbance not caused by an unfair labor practice by the Respondent; act of the public enemy; war; blockade; public riot; fire; storm; flood; explosion; failure to secure timely and necessary federal, state, or local approvals or permits, provided such approvals or permits have been timely and diligently sought; or other delay caused by unforeseeable circumstances beyond the reasonable control of Respondent, its employees, agents, consultants, or contractors, as determined by the Division in its sole discretion. Force Majeure does not include financial inability to perform an obligation required by this Consent Order.

Respondent shall notify the Division verbally within 48 hours (or no later than the beginning of the next business day if the expiration of the 48 hours occurs on a weekend or holiday) from the time Respondent learns, or in the exercise of reasonable diligence should have learned, of any Force Majeure circumstances that may reasonably be expected to cause a schedule or performance delay. Within 10 days of such time, Respondent shall submit to the Division a written notice of as to the anticipated length (if known) and cause of any delay due to Force Majeure. Failure to so notify the Division shall constitute a waiver of any claim to Force Majeure.

The Respondent and the Division agree to negotiate informally and in good faith to identify delays resulting from Forces Majeure. Respondent shall comply with the Division's determination as to the appropriate time period to be excused by Force Majeure, which shall be communicated to Respondent in writing. In the event that any circumstance or series of circumstances cause the schedule to

extend over thirty (30) calendar days, Respondent and the Division shall meet formally to assess the overall schedule impact and attempt to mitigate same. Any Force Majeure or Forces Majeure that cause the schedule to extend over sixty (60) consecutive days shall be noticed to the citizens of Lamar County in a form to be determined by the Division.

If the Division determines that Force Majeure has occurred, the affected time for performance specified in this Consent Order shall be extended for a period of time equal to the delay resulting from such Force Majeure. Respondent shall exercise due diligence and adopt all reasonable measures to avoid or minimize any delay.

This Order does not waive the Director's right to take further enforcement action against Respondent, or imply that the Director will not take such action, either for (1) the violations alleged herein if Respondent fails to fully comply with the conditions of this Order, or (2) violations not alleged herein based on any other relevant requirements of this Order, the law, rules, and permit(s). Issuance of this Order does not waive the Director's right to use the violations alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

This Order is executed and entered solely for the purpose of resolving and disposing of the alleged violations set forth herein and does not constitute a finding, adjudication, or evidence of a violation of any law, rule, or regulation by Respondent, and, by consenting to this Order, Respondent does not admit to any factual allegation contained herein or to any violations of State laws. In addition, this Order is not intended to create and it shall not be construed or otherwise deemed to recognize or create any claim, right, liability, estoppel, or waiver of rights in favor of any third-party or parties.


By agreement of the parties, this Order shall have the same force and binding effect as a Final Order of the Director, and shall become final and effective immediately upon its execution by the Director. The parties further agree that this Order shall not be appealable by Respondent, and Respondent hereby waives its right to initiate any administrative or judicial hearing on the terms and conditions of this Order.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

It is so ORDERED, CONSENTED, and AGREED to this 12th day of February, 2016.



JUDSON H. TURNER
Director, Environmental Protection Division

FOR RESPONDENT: [Respondent's business name here] TALENTI GELATO LLC
BY: 
NAME: BRYAN R. DUNHAM (printed)
TITLE: FACTORY DIRECTOR
DATE: 1-22-16

RESPONDENT: [Individual's name here]

NAME: _____ (printed)
DATE: _____